

22. (Amended) The skin cosmetic composition according to Claim 2, wherein said emulsifying agent or dispersing agent comprises a macromolecular emulsifying or macromolecular dispersing agent.

REMARKS

Claim 20 has been amended to add the phrase "exclude polymer(s) which modify the gel strength of said hydrogel particles". Basis for this limitation may be found on page 5, line 20 through page 6, line 9 of the specification in which it is clearly indicated that polymer material which forms the gel of the present invention is not a combination of a first polymer providing the backbone network and a second polymer modifying the gel strength. Claim 22 has been amended to add the term "macromolecular" before "dispersing agent" to clarify that each agent is a macromolecular agent. No new matter has been added into the amended claims. It is requested that this amendment be entered, since the amendment to Claim 20 clearly distinguishes over the references and places the claims in condition for allowance.

It is noted that the Examiner has not initialed all foreign references in the Form PTO-1449 filed in the Information Disclosure Statement of February 11, 2002, as requested in the Amendment filed July 18, 2002. It is requested that the Examiner initial the references and return a copy to Applicants with the next Official Action. No new matter has been added into the amended claims.

REQUEST FOR RECONSIDERATION

Claims 2, 3 and 20-32 are active in the case.

The rejection of Claims 2, 3 and 20-32 under 35 U.S.C. §103(a) as being unpatentable over Tsaur et al is traversed.

Claim 20, as amended, now excludes polymer(s) like the required second polymer of Tsaur et al, which is added to the first polymer in order to modify the gel strength of the final formed hydrogel particles of Tsaur et al. It is clear in Tsaur et al that two different water soluble polymers are critical to the formation of the hydrogel particles of Tsaur et al. See the discussion in column 2, lines 61-65; column 3, line 57 through column 4, line 44 and column 5, line 62 through column 8, line 4 of Tsaur et al, all of which actions refer to the criticality of two polymers in the hydrogel particles of Tsaur et al.

Further, the hydrogel particles are defined as non-crosslinked in present Claim 20 and this limitation distinguishes over Tsaur et al, which discusses crosslinking in column 6, line 65 through column 7, line 10 as a desirable characteristic of the hydrogel particles of Tsaur et al. The claims, as amended, distinguish over Tsaur et al.

The rejection of Claims 2, 3 and 20-32 under 35 U.S.C. §112, first paragraph is traversed.

The Examiner states that there is no basis for the hydrogel particles having oil component “being dispersed” therein. However, page 6, lines 17-22, especially lines 21 and 22, clearly indicates that the oil component is dispersed in the non-crosslinked hydrogel. The Examiner further states that Claim 25 does not have support for the limitations therein. However, original Claims 9 and 11 and the specification on page 11, lines 15-21 provide basis for the limitations in Claim 25. The claims meet the requirements of 35 U.S.C. §112.

The rejection of Claims 22 and 25 under 35 U.S.C. §112, second paragraph is traversed.

Claim 22 has been amended to insert “macromolecular” before “dispersing agent” in order to clarify that both agents are macromolecular agents. With regard to Claim 25 it is clear from the recitation of “not less than 80% by weight of said hydrogel particles are

composed of hydrogel particles having a ratio of a longest diameter to a shortest diameter (longest diameter/shortest diameter) of not more than 1.7" that the phrase relates to a percent of hydrogel particles of a particular shape in the composition and not to particle size distribution. The claims meet the requirements of 35 U.S.C. §112.

It is submitted that Claims 2, 3 and 20-32 are allowable and such action is respectfully requested.

Respectfully submitted,

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AMENDMENT UNDER 37 C.F.R. §1.116

IN THE CLAIMS

Please amend Claims 20 and 22 as follows:

--20. (Amended) A skin cosmetic composition comprising hydrogel particles and an aqueous medium, wherein the hydrogel particles are dispersed in the aqueous medium, and each of said hydrogel particles comprises a non-crosslinked hydrogel and an oil component, said oil component being dispersed in the non-crosslinked hydrogel, and wherein said hydrogel particles exclude polymer(s) which modify the gel strength of said hydrogel particles.

22. (Amended) The skin cosmetic composition according to Claim 2, wherein said emulsifying agent or dispersing agent comprises a macromolecular emulsifying or macromolecular dispersing agent.--